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4 **UNITED STATES DISTRICT COURT**  
5 **DISTRICT OF NEVADA**  
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7 JAYNES CORPORATION,

8 Plaintiff,

9 v.

10 AMERICAN SAFETY INDEMNITY  
11 CORPORATION, *et al.*,

12 Defendants.

Case No. 2:10-CV-00764-KJD-GWF

**ORDER**

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14 Presently before the Court is Defendant American Safety Indemnity Corporation's Motion to  
15 Dismiss (#7). Plaintiff filed a response in opposition (#11) to which Defendant replied (#14).

16 Plaintiff has challenged the authenticity of the exhibits attached to Defendant's motion to  
17 dismiss. See Plaintiff's Opposition, Doc. No. 10, p. 5, l. 4-20. Furthermore, Plaintiff correctly  
18 asserts that Defendant's motion asserts facts, i.e. the allegations of the underlying state court  
19 complaint, that are not in evidence before this Court. Accordingly, having read and considered  
20 Defendant's motion to dismiss, Defendant's motion to dismiss is denied.

21 **IT IS SO ORDERED.**

22 DATED this 29<sup>th</sup> day of March 2011.

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25 Kent J. Dawson  
26 United States District Judge